REMARKS

Claims 1-20 were pending. Claims 1, 2, 6, 16, 18 and 20 are currently amended. Claims 3-5 and 7-15 are canceled. Claims 17 and 19 are original. New claims 21 and 22 are added. In light of the twelve canceled claims, the two new independent claims do not exceed the number of claims previously paid for as only one independent claim was filed; therefore there are no additional fees.

Claim 1 is currently amended, incorporating the spirit of claim 6, wherein the method is inclusive in that it can accommodate renters that have poor credit histories. A purpose of the method is to enable more people to qualify as eligible rental candidates, not to weed out people. With high default renters the guarantor has the option of increasing the cost of the warranty, however the warranted lease is available to all renters that the landlord wishes to extend a warranted lease. The warranted lease will increase the occupancy percentage for most landlords, and provide many more choices of rental units to renters that otherwise would not be available. The amendments to Claim 1 are supported in the specification on page 2 in the Summary Of The Invention, which states "the guarantor's criteria [which] are much less demanding", and on page 5 line 9-10 the specification reads "enabling access to leased housing to a potential renter who does not qualify against conventional leasing standards".

Claims 1-20 stand rejected by Examiner under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter, which applicant regards as the invention.

For claim 1, the Examiner asks "what is the scope of 'who does not qualify against conventional leasing standards'?" Examiner states that this term (e.g. conventional leasing standards) is considered to be vague and indefinite because it is not known what "standards" are considered to be conventional and which are not. This term (e.g.. conventional leasing standards) is indefinite. Claim 1 is currently amended, and no longer reads on "conventional leasing standards", and the ambiguities in the preamble have been eliminated.

Claims 1-20 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Weatherly et al. (6049784) in view of ATS, Inc. web site. The Examiner states that for claims 1 and 7, Weatherly et al. disclose a lease guarantor that will provide a lease warranty to a landlord in the event that a renter has defaulted on their rent. Column 4, lines 25-33, disclose that the renter must qualify for the lease warranty by satisfying guarantor set of criteria. The criteria are used to set the level of risk that the guarantor is willing to accept with a prospective renter. Weatherly et al. disclose that the renter is checked-out by doing a credit check and an employment check as claimed. Column 4, line 66 and column 5, line 9, disclose the warranty and how the payments can be structured. Weatherly et al. do not disclose that a cost for the warranty is calculated based on qualifying the risk of default. ATS, Inc. discloses a web site/company that offers landlords, realtors, property managers, etc., with a prospective tenant screening service. ATS, Inc. will perform background checks that include an employment check and a credit check as Weatherly et al. disclose, but ATS, Inc. also disclose that a criminal background check is also performed. It would have been obvious to one of ordinary skill in the art at the time the invention was made to perform a criminal background check on a prospective tenant to discover if they were a convicted criminal and for what they were convicted. A landlord would surely want to know if a convicted child sex offender was applying to rent an apartment in a building that also housed a lot of kids. A criminal background check would have been obvious to one of ordinary skill in the art as taught by ATS, Inc., which was representative of the state of the art prior to the invention of the instant application.

Applicant's claim 1 (currently amended), claims a guarantor that will offer a warranted lease agreement to *the potential renter, and all subsequent potential renters.* The invented method is not a screening process, but a method of distributing risk and increasing choice. The cost of the warranted lease is calculated utilizing a computer program processed on a computer. The cost need not be strictly limited to the risk of default, as there may be other social and economic incentives to consider.

The Examiner admits, when discussing claim 20, that Weatherly does not disclose that the results are used by a computer program to determine if the renter does or does not qualify, but argues it would have been obvious to use the a computer to compare the results to determine if a potential renter qualifies. Claim 1 is currently amended to included the

computer, and claim 20 is now a dependent claim reading on "generating a list of landlords willing to enter into the warranted lease agreement". The Examiner has dumbed-down the capabilities of a computer, stating that it is just automation, and citing the decision In re Venner, 262 F.2d 91, 95, 120 USPQ 193, 194 (CCPA 1958). Applicant asserts that the court in 1958 couldn't possibly have anticipated what today's computers can do. Computers in some instances are far superior to humans in evaluating a lot of data. In 1958 Schockly had just received the Nobel Prize for the transistor.

Claims 7-15 are canceled. Furthermore, claim 1, reads on "at least one month's rent", therein establishing an absolute lower value limitation. Weatherly et al. (column 4, line 66-column 5, line 9) read on why a potential tenant was declined, not a method of defining what is a future cost consideration that the potential renter would be agreeing to. Neither Weatherly nor the ATS, Inc. web-site teach an obligation assumed by the renter. The rejection of claims 1 and 7 is respectfully traversed.

As for claim 6, The Examiner asserts that Weatherly teaches that the specific criteria used to assess a particular prospective renter are directly related to the level of risk that the guarantor is willing to accept. Weatherly even discloses in column 1, lines 59-end, that the renter is evaluated to "determine the acceptability of the level of financial risk associated with the potential lessee". Based on this fact, it would have been obvious to one of ordinary skill in the art that was willing to accept a high level of financial risk associated with a potential renter to approve the renter even if they have non-payment of rent or student loans or medical bills or lack of credit, or bankruptcy, or auto repossession. These features are criteria that would be of interest to one of ordinary skill in the art of leased housing and one willing to accept a high level of risk would find it obvious to qualify a renter as claimed. The Examiner states "Setting the threshold values (qualify or not qualified) for the various criteria is a choice that would be obvious to one of ordinary skill in the art and is set according to the level of risk one is willing to accept." Applicant's Claim 6 reads that "the renter is qualified against the at least one lease warranty criteria, *regardless of: judgment for non-payment of rent, bankruptcy, automobile repossession, unpaid medical bills, unpaid student loans and lack of credit.* The Examiner has misstated Weatherly, and added his own words as if they were Weatherly.

Weatherly actually teaches (col. 1, line 54 – end) that an object of the invention is "to provide financial institutions with a heretofore unknown service product which will generate fees for the financial institution as well as providing guarantees to landlords making use of the service product. To those ends, a method for creating and managing a lease agreement includes the steps of providing first predetermined information regarding a potential lessee and a potential lessor to a lease control intermediary; evaluating the first predetermined information by the lease control intermediary to determine the acceptability of the level of financial risk associated with the potential lessee; creating, upon determination of an acceptable risk level, a service product in the form of a guaranty directed to periodic lease payments from the lease control intermediary to the lessor for a predetermined amount defining a guaranty limit, the guaranty limit..." Weatherly's stated object is to generate fees for financial institutions, and minimizing risk. Applicant invention spreads risk and provides housing to those who would not otherwise be qualified regardless of *judgment for non-payment of rent, bankruptcy, automobile repossession, unpaid medical bills, unpaid student loans and lack of credit.* Applicant's invention forgives pass credit issues, etc. Weatherly teaches (col. 4, lines 55-61) "If the comparison with the credit model, which is a computerized data grouping indicative of an ideal applicant, results in declining the applicants, the computer will generate an adverse action 60 letter 28 to the tenant, explaining the reasons they were declined." In contrast, Applicant's invention provides for the renter that is not an ideal applicant.

The Examiner admits that claim 16 is not disclosed that default is when the renter has an ejectment conviction, however he asserts one of ordinary skill in the art would have found it obvious to consider the tenant in default only after an ejectment conviction because this is the point in time where a legal authority has decided the issue and found grounds for eviction. The tenant has then been afforded some due process rights. This is also something that one of ordinary skill in the art would find negotiable and adjustable in the contract for the lease warranty itself. Applicant cites Weatherly as the benchmark as to what is obvious. In col. 3, lines 14 – 53, Weatherly teaches that default is after a couple of letters and one or two late payments. Applicant has found that not all landlord are honest, and tenants go on vacations, have illness and job loss, and these factors are not discernable from a couple of late checks and computer generated letters. Ejectment conviction apparently was not obvious to

Weatherly, or else it would have been taught, and Weatherly is the cited reference for obviousness, not the Examiner, who has the benefit of hindsight, with all due respect. Applicant is confuse by the Examiner's statement "adjustable in the contract for the lease warranty itself". It appears that the Examiner is positioning himself as an inventor or a reference source.

As to claim 17, Examiner cites ATS as having a web site where information on prospective tenants is submitted for review. ATS teaches that applications for leases are taken by using a web site on the Internet and that this is an easy to use and efficient manner of performing the method of tenant screening. Applicant doesn't consider a webpage a valid reference as it is impossible to tell what was on it in on May 10, 2001 (Applicant's filing date).

Claims 18-20 are dependent claims, depending ultimately from claim 1, and draw their novelty from the parent claim and or intervening dependent claims.

Generally, "to establish *prima facie* obviousness of the claimed invention, all the cited limitations must be taught or suggested by the prior art". *In re Royka* 490 Fed. 2nd 981 (C.C.P.A., 1974). "A statement that modifications of the prior art to meet the claimed invention would have been well within the ordinary skill of the art at the time the claimed invention was made because the references relied upon teach that all aspects of the claimed invention were individually known in the art is not sufficient to establish *prima facie* case of obviousness without some objective reason to combine the teachings of the references." M.P.E.P. §2143.02, *citing* *Ex Pane Levenzood.* 28 U.S.P.Q. 2nd 1300 (Bd. Pat. App., 1993). Furthermore, the mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desired validity of the combination. M.P.E.P. §2143.01; *In re Mills,* 1916 Fed. 2nd 680, 16 U.S.P.Q. 2nd 1430 (Fed. Cir. 1990). There must be some objective support. With regards to currently amended claim 1 the Examiner has incorrectly applied a 49 year old court case to support his logic. Admittedly, some things never change ,but the Venner case is dated as it applies to computers. As this rejection is clearly improper, reconsideration thereof is hereby requested.

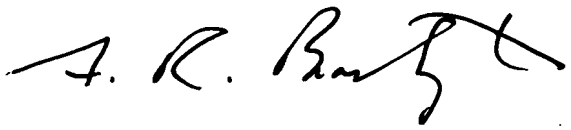
The rejections of claims 1-20 are respectfully traversed.

Fees in the amount of $395 for the RCE and $750 for the revival are enclosed.

Conclusion

In view of the foregoing amendment and the remarks, this application is now believed to be in condition for allowance and such favorable action is respectfully requested on behalf of Applicant. It is believed that there are no fees other those previous identified. The Examiner is encouraged to please contact the Applicant's representative at 704-301-3497 if there are any questions or any fees are due. The Applicant thanks the Examiner for his examination of this application. The Applicant reminds the Examiner of his duty to identify allowable matter.

Respectfully submitted,



F. Rhett Brockington
Registration No. 29,618
10613 Kennel Ln.
Charlotte, NC 28277
Customer No. 25768
Telephone: 704-301-3497

Docket No: 3077